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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILD & FAMILY SECURITY
ANALYSIS**

BILL #: HB 1169
RELATING TO: Displaced Low-Income Workers
SPONSOR(S): Representative(s) Frankel
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILD & FAMILY SECURITY
 - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes the Department of Children and Family Services to provide Medicaid eligibility by rule, and insurance premium coverage to certain persons who become or became unemployed after the terrorist attack on September 11, 2001, and are not currently eligible for COBRA insurance coverage or are eligible but cannot afford the premium.

The bill is effective on the effective date of federal enabling legislation providing for enhanced federal Medicaid matching rates that would provide a 75-percent premium subsidy for persons eligible for COBRA coverage who become or became unemployed after September 11, 2001, and who are unable to afford the premium. The bill authorizes a state subsidy of up to 25 percent of the premium, if enhanced federal Medicaid matching rates are provided.

Since the September 11, 2001, terrorist attack, Congress has been debating various proposals to stimulate the economy. Among the proposals being discussed are proposals to expand Medicaid coverage to persons who became unemployed after September 11, 2001, and premium subsidies to persons who are eligible for continuation of coverage under COBRA, but who cannot afford the premiums. Congress has not yet enacted any legislation containing these provisions.

The provision is repealed on December 31, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

This bill expands Medicaid and COBRA state assistance to a population currently not covered.

B. PRESENT SITUATION:

Federal Economic Stimulus Legislation

Since the September 11, 2001, terrorist attack, Congress has been debating various proposals to stimulate the economy. Among the proposals being discussed are proposals to expand Medicaid coverage to persons who became unemployed after September 11, 2001, and premium subsidies to persons who are eligible for continuation of coverage under COBRA, but who cannot afford the premiums. Congress has not yet enacted any legislation containing these provisions.

COBRA Coverage

The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 gives workers who lose their employer-sponsored health benefits the right to choose to continue group health benefits provided by the plan under certain circumstances. COBRA generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end. It applies to plans in the private sector and those sponsored by state and local governments. Provisions of COBRA covering state and local government plans are administered by the Federal Department of Health and Human Services.

Several events that can cause workers and their family members to lose group health coverage may result in the right to COBRA coverage. These include:

- voluntary or involuntary termination of the covered employee's employment for reasons other than "gross misconduct";
- reduced hours of work for the covered employee;
- covered employee becoming entitled to Medicare;
- divorce or legal separation of a covered employee;
- death of a covered employee; or
- loss of status as a "dependent child" under plan rules.

To qualify for coverage, an individual must elect the coverage within 60 days of notification by the health plan administrator that the individual has the right to choose continuation coverage. Coverage is limited to 18 months in the event of a termination of employment or reduced hours.

COBRA coverage can be considered advantageous for most workers, as it allows continuation of the health insurance policy they had in place at work when they lose or leave a job. Although employees can be required to pay 102 percent of the premium for COBRA coverage, they can usually realize significant savings compared with the cost of purchasing the equivalent insurance policy in the private market. However, many individuals who are eligible for COBRA coverage determine that they cannot afford the premium. According to the Employee Benefits Research Institute, 28 percent of individuals eligible for COBRA continuation coverage elect such coverage.

Many employers consider COBRA to be a costly mandate for three reasons. First, premiums collected from COBRA beneficiaries typically do not cover the costs of the health care services rendered. Average employer claims costs for COBRA beneficiaries amounted to \$5,591, compared with \$3,332 for active employees in surveyed plans. Second, COBRA imposes an additional administrative cost on employers. Third, many employers view the penalties for noncompliance as excessively large.

The "Florida Health Insurance Coverage Continuation Act" (s. 627.6692, F.S.) provides for an 18-month continuation of insurance coverage for employees not protected by COBRA by virtue of having been employed by an employer having fewer than 20 employees.

The Medicaid Program

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The federal government, the state, and the counties jointly fund the program. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The Department of Children and Families (DCF) is responsible for determining Medicaid eligibility and managing Medicaid eligibility policy, with approval of any changes by AHCA.

The statutory provisions for the Medicaid Program appear in ss. 409.901 through 409.9205, F.S. Section 409.903, F.S., specifies categories of individuals who are required by federal law to be covered, if determined eligible, by the Medicaid Program (mandatory coverage groups). Section 409.904, F.S., specifies categories of individuals who the federal government gives state Medicaid programs the choice of covering (optional coverage groups). Payments for services to individuals in the optional categories are subject to the availability of monies and any limitations established by the General Appropriations Act or ch. 216, F.S.

Unemployment in Florida

According to the Florida Research and Economic database of the Agency for Workforce Innovation, between August 2001, and December 2001, there was an increase in total unemployment in Florida from 349,000 to 400,000 individuals.

C. EFFECT OF PROPOSED CHANGES:

Effective on the effective date of federal enabling legislation providing for enhanced federal Medicaid matching rates, authorizes the Department of Children and Family Services to provide Medicaid eligibility by rule to persons who become or became unemployed after September 11, 2001, and are ineligible for COBRA insurance coverage. Effective on the effective date of federal

legislation providing a 75-percent premium subsidy for persons eligible for COBRA coverage who become or became unemployed after September 11, 2001, and who are unable to afford the premium, authorizes a state subsidy of up to 25 percent of the premium, if enhanced federal Medicaid matching rates are provided. Provides for future repeal.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Allows the Department of Children and Family Services to provide by rule that persons unemployed after September 11, 2001, who are not eligible for COBRA coverage, be eligible for Medicaid coverage. The section expires December 31, 2002, and takes effect on the effective date of federal legislation authorizing expansion of Medicaid coverage to such individuals at enhanced federal Medicaid matching rates.

Section 2. Allows the state to subsidize up to 25 percent of COBRA premiums for people who are unable to afford the premium and who are unemployed after September 11, 2001. The section expires December 31, 2002, and takes effect on the effective date of federal legislation authorizing a 75 percent COBRA premium subsidy for the same group of people, and if such federal legislation provides for enhanced federal Medicaid matching rates

Section 3. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The Agency for Health Care Administration cannot provide cost estimates for the bill due to a lack of data on the number who have a COBRA option. Based on the September 2001 Social Services Estimating Conference, the projected average Medicaid cost per person per month in the categorical eligibility group that includes the unemployed parent/family program is \$156.03 for FY 2002-03.

The cost of COBRA benefits will vary depending on the type of coverage each individual had through their employer. Using the State of Florida Employee Group Plan premiums as a base, the total monthly premium is \$257.38 for individual coverage and \$583.96 for family coverage. A 25 percent subsidy would equal \$64.35 monthly for individuals and \$145.99 for family coverage.

The Department of Children and Families estimates the following expenditures for start-up information system changes to the FLORIDA eligibility determination system:

	(FY 2001-2002)	(FY 2002-2003)
Non-recurring or First-Year Start-Up:	\$716,338	-0-
Recurring or Annualized Continuation:		
Appropriations Consequences:	\$716,338	-0-

The Department of Children and Families is unable to project the economic impact on caseloads and staff, as the number of potential eligible persons is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

Since counties currently contribute 35 percent of the cost of hospital inpatient care for their residents, beginning with the 12th day through the 45th day, adding a new group of individuals to the Medicaid program has the effect of increasing county contributions to Medicaid. The amount of fiscal impact on counties cannot be determined.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Providing additional health care coverage will decrease uncompensated care that may be provided to individuals who are uninsured after September 11, 2001. Assisting individual with payment of COBRA premium, thereby increasing the number of people who elect COBRA coverage, may increase costs for employers who sponsor health insurance coverage for their employees.

D. FISCAL COMMENTS:

According to the Department of Children and Families, because the bill creates a new Medicaid coverage group for persons unemployed since September 11, 2001, federal legislation would have to provide for a special waiver of the basic eligibility requirements to provide Medicaid services to this new coverage group.

According to the department, since this is a short-term coverage group, it would allow minimal implementation time for the state, as the public is likely to demand immediate services upon the passage. Potential caseload implications for the department staff could be large, depending on the unemployed numbers. The department is unable to estimate the percentage of total unemployed individuals that may qualify for COBRA. Current staff is already burdened by increasingly high Medicaid caseloads, despite the lower welfare roles for cash assistance. Current staff would need to be trained on the new eligibility group created.

According to the department, the addition of a new Medicaid coverage group would create the need for a change to the current FLORIDA eligibility determination system. This would include collection of additional data in the Application Entry module, new functionality for the Standard Filing Unit and Eligibility Determination and Benefit Calculation modules, as well as modifications to interface to the Florida Medicaid Management Information System. Additional client notices and reports would have to be generated. No estimate has been made of the number of individuals that would be added to the system; therefore the cost for additional system storage or processing resources has not been calculated.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill adds additional individuals to Medicaid. Since counties currently contribute 35 percent of the cost of hospital inpatient care for their residents, beginning with the 12th day through the 45th day, adding a new group of individuals to the Medicaid program has the effect of increasing county contributions to Medicaid. Article VII, s. 18, Florida Constitution, requires that no county or municipality shall be bound by any general law requiring such local government to spend funds or

to take action requiring the expenditure of funds unless the Legislature has formally determined in the bill that such law fulfills an important state interest and the bill must pass by at least a 2/3 vote of the membership of each house of the Legislature.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

See above.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

Individuals terminated for gross misconduct are not eligible for continuation coverage under COBRA or the Florida Health Insurance Coverage Continuation Act. The bill would provide Medicaid coverage to any individual ineligible for COBRA coverage regardless of the reason for termination.

The bill does not set income caps for Medicaid eligibility or for the state COBRA subsidy and does not define inability to afford COBRA premiums.

It is unclear what level is contemplated in the proposed legislation's reference to "enhanced" federal Medicaid match.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

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